

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANTHONY CASTANEDA,

Petitioner,

vs.

WARDEN, HIGH DESERT STATE
PRISON,

Respondent.

Case No. 2:16-cv-02955-RFB-GWF

ORDER

Petitioner has filed an application to proceed in forma pauperis (ECF No. 1) and a request for appointment of counsel (ECF No. 2). The court denies these motions and dismisses this action for two reasons. First, petitioner did not include with his application to proceed in forma pauperis a statement of his inmate account and a financial certificate signed by a prison official, as required by 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2. Second, petitioner did not submit a petition for a writ of habeas corpus. He has presented no grounds for relief, nor has he alleged any facts about his criminal case, and the court cannot evaluate whether appointment of counsel would be warranted.

The court dismisses this action without prejudice, but petitioner needs to be mindful of the one-year statute of limitation of 28 U.S.C. § 2244(d). The time that this action was open has no effect upon the running of the one-year period. Duncan v. Walker, 533 U.S. 167, 181-82 (2001). Also, because petitioner did not file a petition, no grounds exist to which grounds in a subsequent petition could relate back. See Mayle v. Felix, 545 U.S. 644, 664 (2005). Petitioner remains responsible for ensuring that he files a timely habeas corpus petition.

1 Reasonable jurists would not find the court's conclusions to be debatable or wrong, and the court
2 will not issue a certificate of appealability.

3 IT IS THEREFORE ORDERED that the application to proceed in forma pauperis (ECF No. 1)
4 is **DENIED**.

5 IT IS FURTHER ORDERED that the request for appointment of counsel (ECF No. 2) is
6 **DENIED**.


7 IT IS FURTHER ORDERED that the clerk of the court shall send petitioner a blank form for
8 an application to proceed in forma pauperis for incarcerated litigants and a blank form for a petition for
9 a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

10 IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice to
11 petitioner's commencement of a new action in which he either pays the filing fee in full or submits a
12 complete application to proceed in forma pauperis, accompanied by a signed financial certificate and
13 a statement of his inmate account. The clerk of the court shall enter judgment accordingly and close
14 this action.

15 IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

16 DATED: February 26, 2017.

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RICHARD F. BOULWARE, II
United States District Judge